

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

ANITA GRAHAM ,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 07-CV-648-GKF-FHM
	)	
TENNESSEE DEPARTMENT OF LABOR	)	
AND WORKFORCE DEVELOPMENT,	)	
TENNESSEE COMMISSIONER OF LABOR	)	
AND WORKFORCE DEVELOPMENT;	)	
SEARS ROEBUCK; and SEARS HOLDING	)	
CORPORATION,	)	
	)	
Defendants.	)	

**OPINION AND ORDER**

This matter comes before the Court on plaintiff's Motion for Judgment on the Pleadings [Document No. 52] and the Motion to Dismiss as to the Sears Defendants for Plaintiff's Failure to Comply with this Court's Discovery Order [Document No. 53].

On March 19, 2008, Magistrate Judge McCarthy granted a Motion to Compel filed by defendants Sears Roebuck and Sears Holding Corporation (the Sears Defendants). In that Order, the Magistrate Judge ordered plaintiff Anita Graham (Graham) to fully respond to the Sears Defendants' Interrogatories and Requests for Production of Documents by March 28, 2008. The Magistrate Judge advised Graham in the Order that "failure to comply with this order may result in sanctions as provided by the Federal Rules of Civil Procedure, which may include the dismissal of this case."

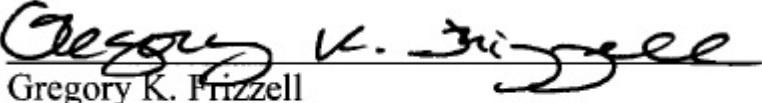
Graham failed to comply with the Order. Instead, on March 28, 2008, Graham filed her Motion for Judgment on the Pleadings, which contains no argument and no authority. The motion contains only one sentence – "Plaintiff request[s] judgment on the pleadings in [the] above

referenced case, under Federal Rules of Civil Procedure: Rule 12 (c)...” It appears that plaintiff believed her Motion for Judgment on the Pleadings would “preclude[] discovery and render[] interrogatories moot.” *See* Graham’s Response to the Sears Defendants’ Motion to Dismiss [Document No. 54, p. 2]. The Motion for Judgment on the Pleadings must be denied, as Graham offers no factual or legal basis in support thereof. Further, it appears to have been filed solely in an effort to thwart proper discovery ordered by the Magistrate Judge.

Graham has failed to comply with the Magistrate Judge’s Order compelling her to fully respond to the Sears Defendants’ Interrogatories and Requests for Production of Documents by March 28, 2008. Pro se parties must follow the same rules of procedure that govern other litigants. *Nielsen v. Price*, 17 F.3d 1276, 1277 (10th Cir. 1994). Dismissal is appropriate where a party fails to obey an order to provide or permit discovery. *Creative Gifts, Inc. v. UFO*, 235 F.3d 540, 549 (10th Cir. 2000). Pursuant to Rule FED.R.CIV. P. 37(b)(2)(A)(v), this action is dismissed without prejudice as to defendants Sears Roebuck and Sears Holding Corporation.

WHEREFORE, plaintiff’s Motion for Judgment on the Pleadings [Document No. 52] is denied, and the Motion to Dismiss as to the Sears Defendants for Plaintiff’s Failure to Comply with this Court’s Discovery Order [Document No. 53] is granted, without prejudice.

IT IS SO ORDERED this 21<sup>st</sup> day of May 2008.

  
Gregory K. Frizzell  
United States District Judge  
Northern District of Oklahoma